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February 2, 2012

VIA HAND-DELIVERY

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Re: Supplement to Petition for Stay of Interim Final Rule; Nonconformance Penalties for On-Highway Heavy Heavy-Duty Diesel Engines.

Dear Administrator Jackson,

On behalf of Mack Trucks, Inc. and Volvo Group North America, LLC (collectively "Mack"), we respectfully submit the following supplemental information in support of Mack's Request for a Stay of the Environmental Protection Agency's ("EPA") *Interim Final Rule; Nonconformance Penalties for On-Highway Heavy Heavy-Duty Diesel Engines*, 77 *Fed. Reg.* 4678 (Jan. 31, 2012) ("Interim NCP Rule"). This supplemental information was released by Navistar, the only entity for which NCPs are sought, on February 1, 2012. As explained herein, it provides additional, irrefutable evidence that EPA's Interim NCP Rule is neither necessary, nor authorized by the Clean Air Act and the Agency's implementing regulations.

On January 27, 2012, Mack formally requested that EPA stay the Interim NCP Rule pending judicial review, pursuant to Rule 18 of the Federal Rules of Appellate Procedure. ("Mack Petition" or "Petition"). As part of the basis for its challenge of the Interim NCP Rule, and as grounds for a stay, Mack demonstrated that EPA has failed to show the existence of a true "technological laggard," as required by the Clean Air Act and EPA's implementing regulations. *See* 40 CFR § 86.1103-87(a)(2); 50 *Fed. Reg.* 35374 (Aug. 30, 1985); Mack Petition at 8. As noted in the Petition, the sole basis for EPA's finding that a technological laggard exists was that an unnamed manufacturer (whom we know to be Navistar, Inc.) had previously used credits to comply with the current 0.2 g/bhp-hr NOx standard, and had not submitted an application for a certificate of conformity for MY 2012 that does not rely on the use of credits. Mack Petition at 8, 77 *Fed. Reg.* 4678, 4680.

As explained in Mack's Petition, this alone is hardly sufficient justification for a finding that a technological laggard exists. The Agency's supposed basis for the NCP Rule is further undermined by Navistar's recent announcement – made the day after the Interim NCP Rule was published in the *Federal Register* – that the company "is ready with an engine that does meet the 0.2-gram NOx limit, and it submitted its specifications to EPA on Tuesday [Jan. 31, 2012]." *See* "Customers Wouldn't Pay Extra for Any Non-Compliance Penalties Imposed on Navistar, Hebe Says," Truckinginfo.com, Feb. 1, 2012. (Attached as Exhibit 1). *See also* "Navistar Hosts Analyst Day to Detail Strategy Driving Shareholder Value," Navistar.com, Feb. 1, 2012 ("[Navistar] also announced it formally submitted its 0.2 g NOx in-cylinder engine certification data to the United States Environmental Protection Agency.") (Attached as Exhibit 2). In light of Navistar's announcements, and the information the company now presumably has provided to EPA, it is clear that Navistar is capable of producing compliant engines, and that such engines could soon be certified by EPA. As a result, there is no longer any justification for an NCP that allows Navistar or any other manufacturer to produce engines with emissions that are more than twice the standard through payment of a nominal penalty.

Also of note is that, by Navistar's own admission, any decisions by the company to hold up introduction of fully complying engines have been based solely on economic concerns. In particular, Navistar states that notwithstanding having an engine fully available that complies with the current 0.2 g/bhp-hr limit, "… 'we can't get optimum performance' in fuel economy, and executives don't want to release the engine for sale." *See* Exhibit 1. This amply demonstrates that Navistar is, at best, an economic laggard, and thus not eligible for non-conformance penalties under the Clean Air Act and EPA regulations. *See* Mack Petition at 8. In addition, EPA's sole basis for ignoring the rulemaking process, and rushing through the Interim NCP Rule without any opportunity for public review, is that Navistar is allegedly running out of credits for use in certifying its higher-emitting engines. 77 *Fed. Reg.* at 4680. According to Navistar, however, the company not only does not expect to run out of credits as quickly as EPA estimates, it also expects to continue to have sufficient credits to continue selling 0.5 g/bhp-hr engines in California. *See* Exhibit 1. This further underscores the lack of need for an NCP.

Finally, given that EPA can process an application for a certificate of conformity within a matter of weeks there simply is no permissible basis to undertake the extraordinary measure of adopting an Interim NCP Rule at this juncture.[1] The Interim NCP Rule would

[1] At a minimum, given that EPA now has unequivocal information before it, supplied by the only entity requesting an NCP, that that entity is capable of producing a fully compliant engine, the Agency is obliged to withdraw its Interim NCP Rule until such time (if ever) it determines that Navistar's engines cannot be certified. It is arbitrary and capricious for the Agency to assume, in presence of certification data and other information from a

allow manufacturers to produce engines with emissions more than twice the NOx emission standard. Thus, EPA's adoption of NCPs in the absence of any need for such runs afoul of the Agency's obligation under the Clean Air Act "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." CAA § 101(b)(1), 42 U.S.C. § 7401(b)(1). Accordingly, EPA should stay the Interim NCP Rule pending judicial review.

For reasons set forth above and in Mack's January 27, 2012 Petition, Mack respectfully requests EPA grant its request for a stay of the Interim NCP Rule.

Sincerely,

Julie R. Domike
Alec C. Zacaroli
Counsel for Mack Trucks, Inc. and
Volvo Group North America, LLC

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manufacturer allegedly demonstrating compliance, that it might not grant a certificate of conformity and therefore must immediately adopt an Interim NCP Rule in clear violation of statutorily mandated rulemaking requirements.

EXHIBIT 1

Truckinginfo
the web site of Heavy Duty Trucking magazine

Print

2/1/2012

Customers Wouldn't Pay Extra for Any Non-Compliance Penalties Imposed on Navistar, Hebe Says

By Tom Berg, Senior Editor

Customers would not see an upcharge if Navistar International has to pay government penalties for producing engines whose emissions exceed the absolute federal limit for nitrogen oxide (NOx), said Jim Hebe, senior vice president of North American sales.

Hebe was commenting on the Environmental Protection Agency's announcement that Navistar might have to pay a penalty for each engine produced that exceeds a limit of 0.2 gram per horsepower-hour for NOx. The penalty would be as much as $1,900 per engine, EPA said.

If the issue goes to that, Navistar would not announce actual penalty figures, Hebe said.

"What we pay would be between us and the EPA," he said. "It's no one else's business." Non-compliance penalties are a function of how close or far a manufacturer is to declared limits, and actual amounts have to be calculated, he added.

Navistar now makes 2010-legal diesels which emit as much as 0.5 gram of NOx compared to competitors' engines that meet the 0.2-gram limit. EPA allows the higher amount because of credits Navistar previously earned for producing thousands of engines that were cleaner than required.

EPA said Navistar has estimated its credits would run out at the end of February, but that it could continue making and selling its current engines if it paid penalties.

Hebe, in remarks to trade press reporters last night, said Navistar's credits might not run out when EPA estimates. He also said Navistar has enough credits to deal with a separate issue, certification of its engines by the California Air Resources Board, which will allow continued selling of Navistar diesels there.

Meanwhile, Navistar is ready with an engine that does meet the 0.2-gram NOx limit, and it submitted its specifications to the EPA on Tuesday.

But "we can't get optimum performance" in fuel economy, and executives don't want to release the engine for sale, Hebe said. Tests show the point-2 engine, a 12.4-liter Maxx Force 13, gets fuel economy as good as the current model, but execs want it to be better.

Drivers and owners "won't see the difference" in the point-2 engine's performance if they used it as it now is, because there are no equipment changes, he said. The lower NOx emissions can be achieved with modified fuel pressures, altered introduction of inlet air, and recalibration of electronic controls.

Navistar will continue to avoid liquid urea injection into exhaust, the active part of competitors' selective catalytic reduction method, Hebe insisted.

EXHIBIT 2

Navistar Hosts Analyst Day to Detail Strategy Driving Shareholder Value

2012 earnings guidance of $5.00 to $5.75 adjusted diluted earnings per share
Adjusted manufacturing segment profit expected to increase 13 - 30 percent
Company formally submits EPA certification data for 0.2g NOx in-cylinder engine

LISLE, Ill., Feb. 1, 2012 /PRNewswire/ -- Navistar International Corporation (NYSE: NAV) announced it will outline the critical elements of its strategy to achieve $20 billion in sales and $1.8 billion in segment profit at an Analyst Day event to be held today at its new product development center in Lisle, Ill. The company also announced it formally submitted its 0.2g NOx in-cylinder engine certification data to the United States Environmental Protection Agency.

"When our investors and analysts walk through the doors of our new product development center today, they will see our world-class integration capabilities that are playing a major role in our drive toward achieving our long-term operational and financial goals," said Daniel C. Ustian, Navistar chairman, president and chief executive officer. "We've made the right investments and delivered improved performance during one of the most challenging economic cycles in recent history, and our executives today will describe in detail how we are positioned for further growth and differentiation in 2012."

Navistar expects North America truck demand to increase 5 to 18 percent in fiscal year ending October 31, 2012, to a range of 275,000 to 310,000. Included in its earning guidance for fiscal 2012 was the improved adjusted manufacturing segment profit of $1.0 to $1.15 billion, a 13 to 30 percent increase over the $882 million achieved in fiscal 2011. The primary driver of our expected improvements is improved results from Navistar's core truck, engine and service parts businesses, partially offset by lower demand for military vehicles.

Navistar said adjusted net income attributable to Navistar International Corporation for fiscal year ending October 31, 2012, is expected to be between $350 million and $400 million, or $5.00 to $5.75 adjusted diluted earnings per share, which is generally consistent with performance in fiscal 2011. However, the company will absorb approximately $90 million in higher post retirement health care costs and expects its effective tax rate to be 25 to 30 percent with cash taxes expected to be below 10 percent.

Navistar International Corporation (NYSE: NAV) is a holding company whose subsidiaries and affiliates produce International® brand commercial and military trucks, MaxxForce® brand diesel engines, IC Bus™ brand school and commercial buses, Monaco® RV brands of recreational vehicles, and Workhorse® brand chassis for motor homes and step vans. It also is a private-label designer and manufacturer of diesel engines for the pickup truck, van and SUV markets. The company also provides truck and diesel engine service parts. Another affiliate offers financing services. Additional information is available at www.Navistar.com/newsroom.

SEC Regulation G Non-GAAP Reconciliation

The financial measures presented below of adjusted income and adjusted diluted earnings per share attributable to Navistar International Corporation, manufacturing segment profit, and adjusted manufacturing segment profit are unaudited and not in accordance with, or an alternative for, financial measures presented in accordance with U.S. generally accepted accounting principles (GAAP). The non-GAAP financial information presented herein should be considered supplemental to, and not as a substitute for, or superior to, financial measures calculated in accordance with GAAP.

We believe manufacturing segment profit, which includes the segment profits of our Truck, Engine, and Parts reporting segments, provides meaningful information of our core manufacturing business and therefore we use it to supplement our GAAP reporting by identifying items that may not be related to the core manufacturing business. We have chosen to provide this supplemental information to investors, analysts and other interested parties to enable them to perform additional analyses of operating results, to illustrate the results of operations giving effect to the non-GAAP adjustments shown in the below reconciliation, and to provide an additional measure of performance.

In addition, we believe that adjusted income and adjusted diluted earnings per share attributable to Navistar International Corporation and manufacturing segment profit excluding certain items, which are not considered to be part of our ongoing business, improves the comparability of year to year results and is representative of our underlying performance. We have chosen to provide this supplemental information to investors, analysts and other interested parties to enable them to perform additional analyses of operating results, to illustrate the results of operations giving effect to the non-GAAP adjustments shown in the reconciliations below, and to provide an additional measure of performance.

Fiscal 2012 guidance: adjusted net income and diluted earnings per share attributable to Navistar International

Corporation reconciliation:

		Lower		Upper
(Dollars in millions, except per share data)				
Net income attributable to Navistar International Corporation..	$	280	$	345
Plus: Engineering integration costs & restructuring of North American manufacturing operations, net of tax (A)..		70		55
Adjusted net income attributable to Navistar International Corporation..........................	$	**350**	$	**400**
Diluted earnings per share attributable to Navistar International Corporation..............................	$	4.00	$	4.95
Effect of adjustments on diluted earnings per share attributable to Navistar International Corporation..		1.00		0.80
Adjusted diluted earnings per share attributable to Navistar International Corporation.	$	**5.00**	$	**5.75**
Approximate diluted weighted shares outstanding...		69.8		69.8

Fiscal 2012 guidance: manufacturing segment profit and adjusted manufacturing segment profit reconciliation:

		Lower		Upper
(Dollars in millions)				
Net income attributable to Navistar International Corporation..	$	280	$	345
Less: Financial services segment profit, Corporate and eliminations, and income taxes...............		(620)		(725)
Manufacturing segment profit..		**900**		**1,070**
Plus: Engineering integration costs & restructuring of North American manufacturing operations (A)..		100		80
Adjusted manufacturing segment profit..	$	**1,000**	$	**1,150**

(A) Engineering integration costs relate to the consolidation of our truck and engine engineering operations as well as the move of our world headquarters, as we continue to develop plans for efficient transitions related to these activities and the optimization of our operations and management structure. Restructuring of North American manufacturing operations are charges primarily related to our plans to close our Chatham, Ontario heavy truck plant and Workhorse chassis plant in Union City, Indiana, and to significantly scale back operations at our Monaco recreational vehicle headquarters and motor coach manufacturing plant in Coburg, Oregon.

Strategy at an industry of 350K: manufacturing segment profit reconciliation:

		Target
U.S. & Canada Industry..		350,000
Sales and revenues, net *(Dollars in billions)*..	$	20 +
(Dollars in millions)		
Net income attributable to Navistar International Corporation...	$	892
Less: Financial services segment profit, Corporate and eliminations, and income taxes...		(888)
Manufacturing segment		

profit	$	1,780

Forward-Looking Statement

Information provided and statements contained in this report that are not purely historical are forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, Section 21E of the Securities Exchange Act of 1934, as amended, and the Private Securities Litigation Reform Act of 1995. Such forward-looking statements only speak as of the date of this report and the Company assumes no obligation to update the information included in this report. Such forward-looking statements include information concerning our possible or assumed future results of operations, including descriptions of our business strategy. These statements often include words such as "believe," "expect," "anticipate," "intend," "plan," "estimate," or similar expressions. These statements are not guarantees of performance or results and they involve risks, uncertainties, and assumptions. For a further description of these factors, see Item 1A, Risk Factors, of our Form 10-K for the fiscal year ended October 31, 2011, which was filed on December 20, 2011. Although we believe that these forward-looking statements are based on reasonable assumptions, there are many factors that could affect our actual financial results or results of operations and could cause actual results to differ materially from those in the forward-looking statements. All future written and oral forward-looking statements by us or persons acting on our behalf are expressly qualified in their entirety by the cautionary statements contained or referred to above. Except for our ongoing obligations to disclose material information as required by the federal securities laws, we do not have any obligations or intention to release publicly any revisions to any forward-looking statements to reflect events or circumstances in the future or to reflect the occurrence of unanticipated events.

SOURCE Navistar International Corporation

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